

Docket No.: 212527US0

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF: _____:

PASCAL ARNAUD : EXAMINER: YU, GINA C.

SERIAL NO.: 09/941,869 :

FILED: AUGUST 30, 2001 : GROUP ART UNIT: 1611

FOR: TRANSFER-RESISTANT COSMETIC COMPOSITIONS COMPRISING A
NON-VOLATILE SILICONE COMPOUND, A NON-VOLATILE
HYDROCARBON-BASED OIL, AND AN INERT PARTICULAR PHASE

APPEAL BRIEF

COMMISSIONER FOR PATENTS
ALEXANDRIA, VIRGINIA 22313

SIR:

This is an appeal from the Final Rejection of the claims dated December 9, 2010.

I. REAL PARTY IN INTEREST

The real party in interest is L'Oreal of Paris, France.

II. RELATED APPEALS AND INTERFERENCES

Appellants, Appellants' legal representative and their assignee are not aware of any appeals or interferences which will directly affect or be directly affected by or having a bearing on the Board's decision in this appeal.

III. STATUS OF THE CLAIMS

Claims 2-27, 44-51, 53-58, 60-78, 81-95, 101, 102, 105, 106 and 109-112 are pending and the subject of this appeal. Claims 53-57, 60 and 61 have been withdrawn from consideration. Claims 1, 28-30, 43, 52, 59, 79, 80, 96-100, 103, 104, 107, 108, 113 and 114 have been canceled.

IV. STATUS OF AMENDMENTS

No amendments have been filed subsequent to the mailing of the Final Rejection on December 9, 2010.

V. SUMMARY OF THE CLAIMED SUBJECT MATTER

As set forth in Claim 62, the present invention relates to a transfer-resistant composition for keratin materials {specification at page 4, lines 21-23}, comprising:

(a) at least one non-volatile hydrocarbon-based oil with a molecular mass ranging from 230 to 420 g/Mol {specification at page 6, lines 12-13};

(b) a silicone component comprising one or more non-volatile silicone compound(s) which are compatible with the non-volatile hydrocarbon-based oil and which are selected from the group consisting of polydimethylsiloxanes, fluorosilicones, silicone resins, silicone gums, polydimethylsiloxanes comprising alkyl or phenyl groups, phenyl trimethicones, phenyl dimethicones, phenyl trimethylsiloxydiphenylsiloxanes, diphenyl dimethicones, diphenyl methyl diphenyltrisiloxanes, 2-phenylethyl trimethylsiloxysilicates, and mixtures thereof, wherein said non-volatile silicone component is present in an amount by mass of from 5 % to 60 %, based on the total mass of said composition {specification at page 11, line 14 to page 12, line 5};

(c) from about 0.1 to about 30% by weight of the total weight of the composition of an inert particulate phase {specification at page 20, line}; and

(d) from 0 to about 5% by weight of the total weight of the composition of a volatile oil {specification at page 19, last two lines},

wherein the composition does not contain a silicone compound which is alkoxyated {the specification generally; as explained in the Amendment and Request for Reconsideration filed on November 16, 2005 at page 18: “Applicant notes that non-alkoxylation is a well-known inherent property or characteristic of the silicone compounds indentified in the present application...”}.

As set forth in Claim 101, the present invention also relates to a transfer-resistant composition {specification at page 4, last line} comprising:

(a) at least one non-volatile hydrocarbon-based oil with a molecular mass ranging from 230 to 420 g/Mol {specification at page 6, lines 12-13};

(b) a silicone component comprising one or more non-volatile silicone compound(s) which are compatible with the non-volatile hydrocarbon-based oil and which are selected from the group consisting of polydimethylsiloxanes, fluorosilicones, silicone resins, silicone gums, polydimethylsiloxanes comprising alkyl or phenyl groups, phenyl trimethicones, phenyl dimethicones, phenyl trimethylsiloxydiphenylsiloxanes, diphenyl dimethicones, diphenyl methyldiphenyltrisiloxanes, 2-phenylethyl trimethylsiloxylicates, and mixtures thereof {specification at page 11, line 14 to page 12, line 5},

(c) from about 0.1 to about 30% by weight of the total weight of the composition of an inert particulate phase {specification at page 20, line }; and

(d) from 0 to about 5% by weight of the total weight of the composition of a volatile oil {specification at page 19, last two lines },

wherein the composition does not contain a silicone compound which is alkoxyated {the specification generally; as explained in the Amendment and Request for Reconsideration filed on November 16, 2005 at page 18: “Applicant notes that non-alkoxylation is a well-

known inherent property or characteristic of the silicone compounds indentified in the present application...”}.

VI. GROUND OF REJECTION TO BE REVIEWED ON APPEAL

1. Whether the subject matter of Claims 5-10, 24-27, 31-35, 37-42, 44-51, 58, 62, 65-69, 77, 78, 81-83, 85-95, 101, 102, 105-107 and 109-112 is unpatentable under 35 U.S.C. §103(a) over Mellul (U.S. patent No. 5,738,841).

2. Whether the subject matter of Claims 2-4 and 64 is unpatentable under 35 U.S.C. §103(a) over Mellul and Jacks (U.S. patent No. 5,690,918).

3. Whether the subject matter of Claims 11-23, 36, 63, 70-76 and 84 is unpatentable under 35 U.S.C. §103(a) over Mellul, Rokitowski (U.S. 5,750,127) and Arquette (U.S. patent No. 5,968,530).

VII. ARGUMENT

Once again, the Examiner has resurrected rejections which had initially been raised years ago and which had been overcome, the result of which is a continued unfair prolongation of the prosecution of this case.

Previously, the Examiner rejected the claims in this application over Mellul and the combination of Mellul with Jacks in the Office Action dated November 18, 2008. By virtue of the response submitted on February 19, 2009, this rejection was overcome.

Mellul discloses a cosmetic composition comprising a silicone-containing compound and a fatty acid ester. See the Abstract.

At column 3, lines 30-31, the reference discloses that “The composition may also contain pigments and/or fillers usually used in such cosmetic compositions.” Mellul fails to disclose a specific amount of the filler to be incorporated into the composition. Applicants submit that the “filler” described in Mellul corresponds to the “inert particulate phase” specified in (c) of Claims 62 and 101 of the present application.

In Examples 7 and 8, the compositions contained 48% and 61% of talc, which is an example of an inert particulate material described in the present specification. Thus, one reading Mellul would be motivated to use much larger amounts of the inert particulate phase as compared to the from about 0.1 to about 30% by weight of the total weight of the composition specified in Claims 62 and 101 of the present application.

In addition, the reference teaches that non-volatile silicone compounds and silicone compounds are interchangeable. Thus, Mellul does not teach, suggest or recognize the criticality of omitting volatile silicone compounds.

In fact, in the Office Action dated February 9, 2006, the Office withdrew the rejection under 35 U.S.C. §103 based on Mellul, recognizing that “Mellul also mentions the functional equivalency of the above non-volatile silicone oils with cyclomethicones, which are volatile oils...(Page 4).

For at least these same reasons, the currently pending rejections based on Mellul fail.

The secondary references Jacks et al., Rokitoski and Arquette each fail to remedies these deficiencies.

Regarding Jacks, that reference relates to transfer-resistant compositions, and typically in such compositions volatile oil evaporates after application to form a transfer-resistant film. Jacks et al. recognizes this crucial role of volatile oils in his transfer-resistant compositions, stating that volatile oils contribute to the “wear characteristics” of his compositions. (Col. 4, lines 10-11). This is presumably why Jacks teaches and exemplifies

that substantial amounts of volatile oil should be present in his compositions, most preferably between 40-50%. (Col. 4, line 38).

One of the practical differences between the claimed invention and Jacks is that the claimed invention permits formation of a transfer-resistant film using a composition containing little or no volatile oil, whereas Jacks requires the presence of a substantial amount of volatile oil. One skilled in the art, seeking to create a transfer-resistant film, would not be motivated by Jacks to remove or reduce volatile solvent because removing volatile solvent would affect the wear-characteristics of these transfer-resistant products. In other words, Jacks et al. would lead one skilled in the art away from the claimed invention.

In view of the foregoing, the subject matter of the pending claims is not obvious over Mellul alone or in any combination with Jacks, Rokitowski and Arquette. Reversal of these grounds of rejection is respectfully requested.

Applicants submit that the present application is in condition for allowance. Early notice to this effect is earnestly solicited.

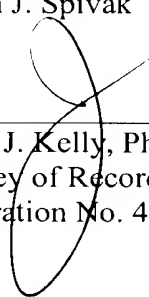
Respectfully submitted,

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CLAIMS APPENDIX

Claims 2-27, 44-51, 53-58, 60-78, 81-95, 101, 102, 105, 106 and 109-112 are subject to appeal and are listed below.

2. The composition according to Claim 101, wherein said non-volatile hydrocarbon-based oil has a molecular mass ranging from 240 to 350 g/Mol.

3. The composition according to Claim 101, wherein said non-volatile hydrocarbon-based oil has a molecular mass ranging from 240 to 300 g/Mol.

4. The composition according to Claim 101, wherein said non-volatile hydrocarbon-based oil has a molecular mass ranging from 240 to 280 g/Mol.

5. The composition according to Claim 101, wherein said non-volatile hydrocarbon-based oil is an ester.

6. The composition according to Claim 101, wherein said non-volatile hydrocarbon-based oil is an ester of a C₂ to C₁₈ acid.

7. The composition according to Claim 101, wherein said non-volatile hydrocarbon-based oil is selected from the group consisting of esters of C₂ to C₂₀ alcohols and esters of C₂ to C₈ polyols, and mixtures thereof.

8. The composition according to Claim 101, wherein said non-volatile hydrocarbon-based oil is a branched acid ester.

9. The composition according to Claim 101, wherein said non-volatile hydrocarbon-based oil is selected from the group consisting of neopentanoic acid esters, isononanoic acid esters, and mixtures thereof.

10. The composition according to Claim 101, wherein said non-volatile hydrocarbon-based oil is selected from the group consisting of isodecyl neopentanoate, isotridecyl neopentanoate, isostearyl neopentanoate, octyldodecyl neopentanoate, isononyl isononanoate, octyl isononanoate, isodecyl isononanoate, isotridecyl isononanoate, isostearyl isononanoate, and mixtures thereof.

11. The composition according to Claim 101, further comprising a dispersant, wherein said dispersant comprises at least one non-volatile hydrocarbon-based compound which is compatible with said non-volatile hydrocarbon-based oil and is incompatible with said non-volatile silicone component.

12. The composition according to Claim 11, wherein said dispersant has solubility parameters such that $16.40 (\text{J}/\text{cm}^3)^{1/2} \leq \delta_D \leq 19.00 (\text{J}/\text{cm}^3)^{1/2}$ and $2.00 (\text{J}/\text{cm}^3)^{1/2} \leq \delta_D \leq 9.08 (\text{J}/\text{cm}^3)^{1/2}$.

13. The composition according to Claim 11, wherein said dispersant has solubility parameters such that $16.70 (\text{J}/\text{cm}^3)^{1/2} \leq \delta_D \leq 18.50 (\text{J}/\text{cm}^3)^{1/2}$.

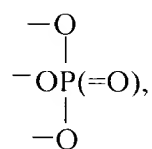
14. The composition according to Claim 11, wherein said dispersant has solubility parameters such that $4.00 (\text{J}/\text{cm}^3)^{1/2} \leq \delta_D \leq 9.08 (\text{J}/\text{cm}^3)^{1/2}$.

15. The composition according to Claim 11, wherein said dispersant has solubility parameters such that $5.00 (\text{J}/\text{cm}^3)^{1/2} \leq \delta_{\text{D}} \leq 6.80 (\text{J}/\text{cm}^3)^{1/2}$.

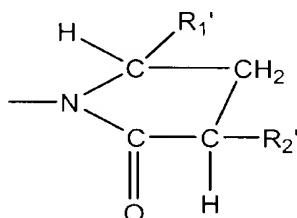
16. The composition according to Claim 11, wherein said dispersant has a molar mass greater than 600 g/Mol.

17. The composition according to Claim 11, wherein said dispersant has a molar mass greater than 700 g/Mol.

18. The composition according to Claim 11, wherein said dispersant has a chemical structure comprising at least one nonionic polar group selected from the group consisting of $-\text{COOH}$; $-\text{OH}$;

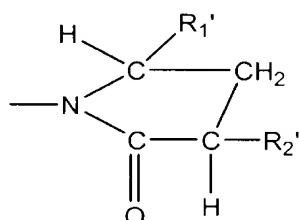
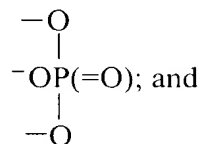


$-\text{NHR}$, wherein R represents a linear or branched C_1 to C_{20} alkyl or alkoxy radical; $-\text{NR}_1\text{R}_2$ wherein R_1 and R_2 each independently represents a linear or branched C_1 to C_{20} alkyl or alkoxy radical or R_1 and R_2 together can form a ring; and



wherein R_1' and R_2' each independently may be equal to H or to a linear or branched C_1 to C_{20} alkyl or alkoxy chain.

19. The composition according to Claim 11, wherein said non-volatile hydrocarbon-based compound has a chemical structure comprising at least one nonionic polar group selected from the group consisting of $-\text{COOH}$; $-\text{OH}$;



wherein R_1' and R_2' each independently may be equal to H or to a linear or branched C_1 to C_{20} alkyl or alkoxy chain.

20. The composition according to Claim 11, wherein said non-volatile hydrocarbon-based compound is selected from the group consisting of diisostearyl malate, polyol monoesters, polyol polyesters, poly(12-hydroxystearic acids), and mixtures thereof.

21. The composition according to Claim 11, wherein said dispersant is present in an amount by mass ranging from 2 % to 40 %, based on the total weight of said composition.

22. The composition according to Claim 11, wherein said dispersant is present in an amount by mass ranging from 2.5 % to 20 %, based on the total weight of said composition.

23. The composition according to Claim 11, wherein said dispersant is present in an amount by mass ranging from 3 % to 10 %, based on the total weight of said composition.

24. The composition according to Claim 101, wherein said non-volatile silicone component is a component which is liquid at room temperature.

25. The composition according to Claim 101, wherein said non-volatile silicone component has a viscosity within the range from 5 to 1,000,000 cSt at 25°C.

26. The composition according to Claim 101, wherein said non-volatile silicone component has a viscosity within the range from 10 to 500,000 cSt.

27. The composition according to Claim 101, wherein said non-volatile silicone component has a viscosity within the range from 10 to 5,000 cSt.

31. The composition according to Claim 101, wherein said non-volatile silicone component is present in an amount by mass of from 10 % to 50 %, based on the total mass of said composition.

32. The composition according to Claim 101, wherein said non-volatile hydrocarbon-based oil is present in an amount by mass of from 5 % to 99 %, based on the total mass of said composition.

33. The composition according to Claim 101, wherein said non-volatile hydrocarbon-based oil is present in an amount by mass of from 10 % to 60 %, based on the total mass of said composition.

34. The composition according to Claim 101, wherein said non-volatile hydrocarbon-based oil is present in an amount by mass of from 15 % to 50 %, based on the total mass of said composition.

35. The composition according to Claim 101, further comprising at least one ingredient selected from the group consisting of active agents, dyestuffs, and mixtures thereof.

36. The composition according to Claim 11, wherein the ratio by mass of said non-volatile silicone component relative to said dispersant is greater than or equal to 1.

37. The composition according to Claim 101, further comprising at least one fatty substance other than the non-volatile silicone component, the non-volatile hydrocarbon-based oil and the dispersant, which is selected from the group consisting of waxes, gums, fatty substances that are pasty at room temperature, and oils, and mixtures thereof.

38. The composition according to Claim 35, wherein said dyestuffs comprise at least one pulverulent dye compound chosen from pigments and nacres, and mixtures thereof.

39. The composition according to Claim 34, wherein said pulverulent dye compound is present in an amount up to 50 % by weight of the total weight of said composition.

40. The composition according to Claim 101, wherein said particulate phase contains at least one absorbent or non-absorbent inert filler.

41. The composition according to Claim 40, wherein said inert filler is selected from the group consisting of spherical fillers, lamellar fillers, oblong fillers, and mixtures thereof.

42. The composition according to Claim 40, wherein said inert filler is selected from the group consisting of talc, mica, silica, kaolin, polyamide powders, poly- β -alanine powder, polyethylene powder, polytetrafluoroethylene powders, lauroyllysine, starch, boron nitride, hollow polymer microspheres, acrylic acid copolymers, silicone resin microbeads, precipitated calcium carbonate, magnesium carbonate, magnesium hydrocarbonate, hydroxyapatite, hollow silica microspheres, glass microcapsules, ceramic microcapsules, and mixtures thereof.

44. The composition according to Claim 40, wherein said inert particulate phase is present in an amount of from 2 % to 25 %, by weight of the total weight of said composition.

45. The composition according to Claim 40, wherein said inert particulate phase is present in an amount of from 10 % to 20 %, by weight of the total weight of said composition.

46. The composition according to Claim 101, which is free of a volatile silicone.

47. The composition according to Claim 62, which is free of a volatile oil.

48. The composition according to Claim 101, which is in the form of a stick or tube, in the form of a soft paste, in the form of a dish, an oily gel, an oily liquid, a vesicular dispersion containing ionic and/or nonionic lipids, or a water-in-oil or oil-in-water emulsion.

49. The composition according to Claim 101, which is in anhydrous form.

50. The composition according to Claim 101, which is a make-up composition.

51. The composition according to Claim 101, which is in the form of a foundation, a blusher, an eyeshadow, a lipstick, a care base or care balm for the lips, a concealer product, an eyeliner or a mascara.

53. A method for caring for or making-up the lips or the skin, said method comprising applying to the lips or the skin the composition of claim 4 101.

54. The method according to Claim 53, wherein said composition further comprises a dispersant, said dispersant comprising at least one non-volatile hydrocarbon-based compound with solubility parameters such that $16.40 \text{ (J/cm}^3)^{1/2} \leq \delta_D \leq 19.00 \text{ (J/cm}^3)^{1/2}$ and $2.00 \text{ (J/cm}^3)^{1/2} \leq \delta_D \leq 9.08 \text{ (J/cm}^3)^{1/2}$.

55. A method for reducing or even preventing altogether the transfer of a film of composition deposited on the skin and/or the lips of a human being to a support placed in contact with the film and/or for preserving its gloss and/or for making this film comfortable to wear and/or for increasing the staying power of the film over time and/or for reducing its migration, said method comprising applying to the lips or the skin the composition of claim 101 to form said film.

56. The method according to Claim 55, wherein said composition is free of a volatile silicone oil.

57. The method according to Claim 55, characterized in that the composition also contains a dispersant comprising at least one non-volatile hydrocarbon-based compound with solubility parameters such that $16.40 \text{ (J/cm}^3\text{)}^{1/2} \leq \delta_D \leq 19.00 \text{ (J/cm}^3\text{)}^{1/2}$ and $2.00 \text{ (J/cm}^3\text{)}^{1/2} \leq \delta_D \leq 9.08 \text{ (J/cm}^3\text{)}^{1/2}$.

58. The composition according to Claim 101, further comprising at least one dyestuff.

60. The method according to Claim 53, wherein the composition further comprises at least one dyestuff.

61. The method according to Claim 55, wherein the composition further comprises at least one dyestuff.

62. A transfer-resistant composition for keratin materials, comprising:

(a) at least one non-volatile hydrocarbon-based oil with a molecular mass ranging from 230 to 420 g/Mol;

(b) a silicone component comprising one or more non-volatile silicone compound(s) which are compatible with the non-volatile hydrocarbon-based oil and which are selected from the group consisting of polydimethylsiloxanes, fluorosilicones, silicone resins, silicone gums, polydimethylsiloxanes comprising alkyl or phenyl groups, phenyl trimethicones, phenyl dimethicones, phenyl trimethylsiloxydiphenylsiloxanes, diphenyl dimethicones, diphenyl methyl diphenyl trisiloxanes, 2-phenylethyl trimethylsiloxysilicates, and mixtures thereof, wherein said non-volatile silicone component is present in an amount by mass of from 5 % to 60 %, based on the total mass of said composition;

(c) from about 0.1 to about 30% by weight of the total weight of the composition of an inert particulate phase; and

(d) from 0 to about 5% by weight of the total weight of the composition of a volatile oil,

wherein the composition does not contain a silicone compound which is alkoxyated.

63. The composition according to Claim 22, further comprising at least one dyestuff.

64. The composition according to Claim 62, wherein said non-volatile hydrocarbon-based oil has a molecular mass ranging from 240 to 350 g/Mol.

65. The composition according to Claim 62, wherein said non-volatile hydrocarbon-based oil is an ester of a C₂ to C₁₈ acid.

66. The composition according to Claim 62, wherein said non-volatile hydrocarbon-based oil is selected from the group consisting of esters of C₂ to C₂₀ alcohols and esters of C₂ to C₈ polyols, and mixtures thereof.

67. The composition according to Claim 62, wherein said non-volatile hydrocarbon-based oil is a branched acid ester.

68. The composition according to Claim 62, wherein said non-volatile hydrocarbon-based oil is selected from the group consisting of neopentanoic acid esters, isononanoic acid esters, and mixtures thereof.

69. The composition according to Claim 62, wherein said non-volatile hydrocarbon-based oil is selected from the group consisting of isodecyl neopentanoate, isotridecyl neopentanoate, isostearyl neopentanoate, octyldodecyl neopentanoate, isononyl isononanoate, octyl isononanoate, isodecyl isononanoate, isotridecyl isononanoate, isostearyl isononanoate, and mixtures thereof.

70. The composition according to Claim 62, further comprising a dispersant, wherein said dispersant comprises at least one non-volatile hydrocarbon-based compound which is compatible with said non-volatile hydrocarbon-based oil and is incompatible with said non-volatile silicone component.

71. The composition according to Claim 70, wherein said dispersant has solubility parameters such that $16.40 \text{ (J/cm}^3)^{1/2} \leq \delta_D \leq 19.00 \text{ (J/cm}^3)^{1/2}$ and $2.00 \text{ (J/cm}^3)^{1/2} \leq \delta_D \leq 9.08 \text{ (J/cm}^3)^{1/2}$.

72. The composition according to Claim 70, wherein said dispersant has a molar mass greater than 600 g/Mol.

73. The composition according to Claim 70, wherein said non-volatile hydrocarbon-based compound is selected from the group consisting of diisostearyl malate, polyol monoesters, polyol polyesters, poly(12-hydroxystearic acids), and mixtures thereof.

74. The composition according to Claim 70, wherein said dispersant is present in an amount by mass ranging from 2 % to 40 %, based on the total weight of said composition.

75. The composition according to Claim 70, wherein said dispersant is present in an amount by mass ranging from 2.5 % to 20 %, based on the total weight of said composition.

76. The composition according to Claim 70, wherein said dispersant is present in an amount by mass ranging from 3 % to 10 %, based on the total weight of said composition.

77. The composition according to Claim 62, wherein said non-volatile silicone component is a component which is liquid at room temperature.

78. The composition according to Claim 62, wherein said non-volatile silicone component has a viscosity within the range from 10 to 5,000 cSt.

81. The composition according to Claim 62, wherein said non-volatile silicone component is present in an amount by mass of from 10 % to 50 %, based on the total mass of said composition.

82. The composition according to Claim 62, wherein said non-volatile hydrocarbon-based oil is present in an amount by mass of from 15 % to 50 %, based on the total mass of said composition.

83. The composition according to Claim 101, further comprising at least one ingredient selected from the group consisting of active agents, dyestuffs, and mixtures thereof.

84. The composition according to Claim 70, wherein the ratio by mass of said non-volatile silicone compound relative to said dispersant is greater than or equal to 1.

85. The composition according to Claim 83, wherein said dyestuffs comprise at least one pulverulent dye compound chosen from pigments and nacres, and mixtures thereof.

86. The composition according to Claim 85, wherein said pulverulent dye compound is present in an amount up to 50 % by weight of the total weight of said composition.

87. The composition according to Claim 62, wherein said particulate phase contains at least one absorbent or non-absorbent inert filler.

88. The composition according to Claim 87, wherein said inert filler is selected from the group consisting of spherical fillers, lamellar fillers, oblong fillers, and mixtures thereof.

89. The composition according to Claim 62, wherein said inert particulate phase is present in an amount of from 2 % to 25 %, by weight of the total weight of said composition.

90. The composition according to Claim 62, wherein said inert particulate phase is present in an amount of from 10 % to 20 %, by weight of the total weight of said composition.

91. The composition according to Claim 101, which is free of a volatile silicone.

92. The composition according to Claim 62, which is in anhydrous form.

93. The composition according to Claim 62, which is a make-up composition.

94. The composition according to Claim 62, which is in the form of a foundation, a blusher, an eyeshadow, a lipstick, a care base or care balm for the lips, a concealer product, an eyeliner or a mascara.

95. The composition according to Claim 62, which is in the form of a lipstick.

101. A transfer-resistant composition comprising:

(a) at least one non-volatile hydrocarbon-based oil with a molecular mass ranging from 230 to 420 g/Mol;

(b) a silicone component comprising one or more non-volatile silicone compound(s) which are compatible with the non-volatile hydrocarbon-based oil and which are selected from the group consisting of polydimethylsiloxanes, fluorosilicones, silicone resins, silicone gums, polydimethylsiloxanes comprising alkyl or phenyl groups, phenyl trimethicones, phenyl dimethicones, phenyl trimethylsiloxydiphenylsiloxanes, diphenyl dimethicones, diphenyl methyl diphenyltrisiloxanes, 2-phenylethyl trimethylsiloxysilicates, and mixtures thereof,

(c) from about 0.1 to about 30% by weight of the total weight of the composition of an inert particulate phase; and

(d) from 0 to about 5% by weight of the total weight of the composition of a volatile oil,

wherein the composition does not contain a silicone compound which is alkoxyated.

102. The composition according to Claim 101, wherein the composition is a lipstick.

105. The composition according to claim 101, wherein the non-volatile silicone component comprises a phenylated silicone compound.

106. The composition according to claim 101, wherein the non-volatile silicone component comprises phenyl trimethicone.

109. The composition according to claim 101, wherein the non-volatile silicone component comprises a phenylated silicone compound.

110. The composition according to claim 101, wherein the non-volatile silicone component comprises phenyl trimethicone.

111. The composition according to claim 101, wherein from 0 to about 2% by weight of the total weight of the composition of a volatile oil is present.

112. The composition according to claim 62, wherein from 0 to about 2% by weight of the total weight of the composition of a volatile oil is present.

EVIDENCE APPENDIX

None.

RELATED PROCEEDINGS APPENDIX

None.